

Notice of Allowability

Application No.

09/709,323

Examiner

Susanna M. Diaz

Applicant(s)

FAY ET AL.

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3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Examiner's amendment agreed to on September 14, 2007.
2. ☒ The allowed claim(s) is/are 1-4, 9, 12-24, 26-31, 60 and 62-64.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Susanna Diaz
SUSANNA M. DIAZ
PRIMARY EXAMINER
AU3694

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert D. Touslee (Reg. No. 34,032) on September 14, 2007.

The application has been amended as follows:

Please cancel claims 33-37, 40-44, 46-59, and 65-67.

Reasons for Allowance

2. Claims 1-4, 9, 12-24, 26-31, 60, and 62-64 are allowed.

3. The following is an examiner's statement of reasons for allowance:

Monks et al. ("Audiooptimization: Goal-Based Acoustic Design") discloses various details of a goal-based acoustic design system. A user inputs desired acoustical goals and then simulates existing sound conditions to select from various potential solutions. Monks helps to optimize sound levels in various areas of a large performance hall; however, Monks does not expressly disclose the details of performing all of the recited functionality in relation to rooms, sound paths between the rooms, and desired performance levels within a room. In Applicant's response filed on July 5, 2007, Applicant asserts that a room is more than a defined area of space. Applicant cites

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page 9 of the specification to imply that a room is defined by more physical components that establish physical boundaries of a room. Such components may include walls, floors and doors (pages 13-14 of Applicant's response). Furthermore, while Monks explains that cost is important in choosing a goal-based acoustic design solution, Monks does not perform the complex calculations involved in determining materials *and* labor costs associated with *each combination* of enhancement solutions, as recited in the claimed invention. Carlbom et al. (U.S. Patent No. 6,751,322) simulates propagation paths of sound using auralization techniques (abstract). Such paths may be traced between rooms that include a doorway between them (Fig. 5b; col. 5, lines 44-58); however, Carlbom does not perform any cost analysis or provide a combination of goal-based enhancement solutions, as recited in the claimed invention. Due to the level of complexity involved in creating the claimed invention, especially at the level of detail recited, the Examiner submits that one of *ordinary skill* in the art at the time of Applicant's invention would not have found it obvious to modify Monks and/or Carlbom to create the claimed invention as a whole. Therefore, claims 1-4, 9, 12-24, 26-31, 60, and 62-64 are deemed to be allowable over the prior art of record.

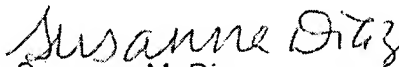
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Susanna M. Diaz
Primary Examiner
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September 15, 2007